

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL SECOND APPEAL No. 368 of 2004

JEEVA RAM
V/S
R.S.E.B. & ORS

Mr. RK Soni, for the appellant / petitioner

Mr. SS JODHA, for the respondent

Date of Order : 4.10.2006

HON'BLE SHRI N P GUPTA, J.

ORDER

Heard learned counsel for the parties and perused the impugned judgment.

This appeal has been filed against the judgment of lower appellate court whereby the decree passed by the trial Court has been reversed on the ground that plaintiff had not approached the Settlement Committee and straightway having filed the suit.

Vide order dated 8.11.2004, the application filed by the appellant under O.41 R.27 CPC was allowed whereby the appellant sought to produce the copy of the order of the Settlement Committee negating the contention of the appellant, thereafter vide order dated 25.11.2004, show cause notice was issued to the respondent and interim stay was granted.

Today, learned counsel for the respondent realising this, submitted that the matter may be remitted back to the learned lower appellate Court for deciding the

case on merits.

Accordingly, the appeal is allowed. The impugned judgment of the learned lower appellate Court is set aside, and the matter is sent back to the lower appellate Court, for adjudicating the plaintiff's case on merits, and deciding the appeal afresh. The parties are directed to appear before the lower appellate Court on 6th November, 2006.

(N P GUPTA), J.

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